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**TESTIMONY OF JEANINE M. DUMONT IN SUPPORT OF CLARIFICATION
OF CONN. GEN. STAT. §52-356d(e) SET FORTH IN RAISED BILL NO. 1211
TO BE PRESENTED ON MARCH 25, 2011**

The last time the General Assembly visited the issue of post judgment interest was in 2003 when the General Assembly was asked to carve out special provisions for cases involving hospital debts. The proposal, P.A. 03-266, was, *inter alia*, to make the rate of postjudgment interest on hospital debt 5%, reducing it from the currently effective 10% rate of postjudgment interest applied in all cases.

In considering this proposal, the Judiciary Committee made clear its intention to treat hospital debts—which are generally involuntarily incurred debts—differently from other debts. At the Judiciary Committee hearing on March 10, 2003, Grace Rollins, a research analyst for a nonprofit which promotes the well being of Connecticut working families, testified that the proposed legislation lowers the postjudgment interest from the “current” rate of 10% under Conn. Gen. Stat. §37-3a. She testified, “Once a creditor wins a judgment by default or otherwise, 10% interest is charged on the debt until it is fully paid off.” She further testified, “Hospital debts are very different from other consumer debts in that they are involuntarily acquired and are catastrophic enough without the devastating consequences of 10% post-judgment interest.” Conn. Joint Standing Committee Hearings, Judiciary, Pt. 6, 2003 Sess. pp. 1833-91, 1833-34.

Rep. Lawlor voiced his agreement that hospital debts are distinguishable from debts which are incurred by those purchasing “fancy television sets or cars or furniture for their homes and things like that.” *Id.* at 1835.

The current legislation would have no impact on the modification for hospital patients made in 2003, but would make clear what was acknowledged by everyone, including the consumer advocate in 2003, that post judgment interest accrues at a rate of 10% on all postjudgment debt. The legislative history makes clear that in 2003 the General Assembly reaffirmed the right of judgment creditors to collect 10% post judgment interest in all cases except those involving hospital debts. This was what was clearly intended by Conn. Gen. Stat. §52-356d(e) when it was enacted. It was the *quid pro quo* for a judgment creditor being asked to wait for payment of this debt—he or she would be compensated for the delay in payment by the simple interest which would accrue on the *unpaid* amount of the judgment. Without interest, the judgment debtor has no incentive to pay the judgment, and every reason to delay payment.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR

Consider the case of a creditor who lends the defendant \$5,000. The creditor is not paid, and there is a default on the obligation to make payment. As a result, the creditor commences suit in the Connecticut Small Claims Court to recover the \$5,000. Judgment is entered in favor of the creditor, and in Connecticut Small Claims Court, when the defendant debtor is an individual, there is no option as to whether or not an installment payment order will be issued by the Court—they are automatically ordered by the Court in every case. So the creditor does not have an option to request payment of a lump sum by a date certain, he or she must accept an installment payment order. In most cases, the order is based upon *what the debtor can pay*, and it is not based upon any consideration of the parties' agreement, etc. In most cases, if the debtor appears in Court and states that he or she can only afford to pay \$25 per month that is what the Court orders. In most cases, there is no evidence produced by the defendant to substantiate the claim that he or she can only afford \$50 per month, but a few questions might be asked by the magistrate as to defendant's employment status and whether he or she has dependents or other sources of income. Some courts award post judgment interest in these cases, and some do not, and there are no guidelines for when it is awarded and when it is not—it is purely a matter of what that particular judge or magistrate believes is right.

If no post judgment interest is awarded, the judgment debtor will have paid the \$5,000 judgment in 100 months **or 8.33 years**, assuming that all payments are timely made over the 8.33 year period. The judgment creditor, however, is not made whole, and now is losing more money. If you calculate the net present value calculation, using a 7-year Treasury Note (an investment with virtually no risk factor), the actual net present value of the \$5,000 judgment at the time of the award is \$4,375.03. Thus, there is a significant loss to the judgment creditor unless postjudgment interest is applied to the unpaid amounts. This should not be a goal of our judicial policy. It chills the desire to do business and lend money if one cannot be made whole in the event of a default on the obligation and the need to resort to the courts for collection of a debt. This should be a policy that our General Assembly seeks to discourage, particularly at this time when Connecticut needs a thriving business climate. We should not be punishing those who are doing business here with no means to effectively recover what they are due, as is now the case in Connecticut courts.